APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/513,652	02/25/2000	James G. Hanko	83000.1134;P4725/ARG	6825

7590   01/15/2003

Brian M. Berliner, Esq.
O'MELVENY & MYERS LLP
400 South Hope Street
Los Angeles, CA 90071-2899

EXAMINER
NGUYEN, THANH T

ART UNIT	PAPER NUMBER
2143	

DATE MAILED: 01/15/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 07-01)

	Application No.		Applicant(s)	
Office Action Summary	09/513,652		HANKO ET AL.	
	Examiner		Art Unit	
	Tammy T Nguyen		2143	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *(3)* MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on *25 February 2000* .

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-19* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☐ Claim(s) *1-19* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *25 February 2000* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

    If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

        1.☐ Certified copies of the priority documents have been received.

        2.☐ Certified copies of the priority documents have been received in Application No. _____ .

        3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

    a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) *9* .

4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: .

Examiner's Detailed Office Action

1. This action is in response to the application **09/513,652** filed. **February 25, 2000**

2. Claims **1-19** have been examined.

3. Applicants are required to fill in the blank on page number 10.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

5. Claims 1-19 rejected under 35 U.S.C. 102(e) as being clearly anticipated by Spilo et al. (USPN 6,298,422 – Date of Patent: October 2, 2001, herein referred to as "Spilo").

6.   As to claim 1, Spilo teaches the invention as claimed, including a method of improving access to one or more resources on a computer hosting a plurality of applications comprising;

determining when a first application should no longer be active (col.3, lines 35-47, and col.4, lines 1-13); and

stopping said first application from consuming on or more resources (col.3, lines 17-27, and col.3, lines 35-47).

7.   As to claim 2, Spilo teaches the invention as claimed, including a method of improving access to one or more resources on a computer hosting a plurality of applications comprising:

identifying a target applications (col.4, lines 37-49); and

reducing said target application's consumption of or more resources (col.3, lines 35-47, and col.4, lines 58-67).

8.   As to claim 3, Spilo teaches the invention as claimed, including a method of improving access to one or more resources on a computer hosting a plurality of applications comprising:

determining when a first session is no longer active by identifying when a desktop unit is disassociated with said session (col.4, lines 38-67);

sending a first signal to at least one member of said plurality of applications indicating that said at least one member should stoop consuming said resource (col.4, lines 38-49);

determining when said first session becomes active by identifying when any desktop unit becomes re-associated with said session (col.5, lines 1-21, and col.5, lines 40-60);

sending a second signal to said at least one member indicating that said at least one member should resume consuming said resource (col.5, lines 40-60).
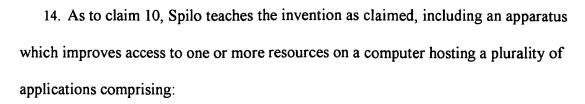
9. As to claim 5, Spilo teaches the invention as claimed, wherein said first and second signals are sent by server (col.3, lines 55-67, and col. 4, lines 50-67).

10. As to claim 6, Spilo teaches the invention as claimed, wherein said at least one member comprises a subset of said plurality of applications (col.5, lines 1-20, col.6, lines 1-8, and col.7, lines 59-67).

11. As to claim 7, Spilo teaches the invention as claimed, wherein said first signal comprises an operating system command to stop a process (col.4, lines 50-67); and

said second signal comprises an operating system command to start to process (col.5, lines 40-60).

12. As to claim 8, Spilo teaches the invention as claimed, wherein modifying a data structure associated with an application when said first signal and said second signal are transmitted (col.3, lines 55-67, and col. 4, lines 50-67).

13. As to claim 9, Spilo teaches the invention as claimed, including an apparatus which improves access to one or more resources comprising:

an application (col.3, lines 28-35); and

a server configured to detect that said application no longer needs to be active on said server (col.3, lines 35-47, and col.4, lines 1-13), and to stop said first application from consuming one or more resources (col.3, lines 17-27, and col.3, lines 35-47).

14. As to claim 10, Spilo teaches the invention as claimed, including an apparatus which improves access to one or more resources on a computer hosting a plurality of applications comprising:

a first session wherein said first session is disassociated with a desktop unit, indicating that said first session is inactive (col.4, lines 38-67);

a first signal transmitted from said computer to at least one member of said plurality of applications indicating that said at least one member should stop consuming one or more resources (col.4, lines 38-49);

wherein said first session becomes re-associated with a desktop unit, indicating that said session has resumed activity (col.5, lines 1-21, and col. 5, lines 40-60); and

a second signal transmitted fro said computer to said at least one member indicating that said at least one member should resume consuming said one or more resources (col.5, lines 40-60).

15. As to claim 12, Spilo teaches the invention as claimed, wherein said first and second signals are sent by a server (col.3, lines 55-67, and col. 4, lines 50-67).

16. As to claim 13, Spilo teaches the invention as claimed, wherein said at least one member comprises a subset of said plurality of applications (col.5, lines 1-20, col.6, lines 1-8, and col.7, lines 59-67).

17. As to claim 14, Spilo teaches the invention as claimed, including a computer program product comprising:

a computer usable medium having computer readable program code embodied therein for improving access to one or more resources comprising, computer readable

program coda configured to cause a computer to identify an application that is no longer

active on a server (col.3, lines 35-47, and col.4, lines 1-13); and

computer readable program code configured to cause said server to stop said

application from consuming one or more resources (col. 3, lines 17-27, and col.3, lines

35-47).

18. As to claim 15, Spilo teaches the invention as claimed, including a computer

program product comprising: including a computer program product comprising:

a computer usable medium having computer readable program code embodied

therein for improving access to one or more resources comprising, computer readable

program coda configured to cause a computer to identify a target application (col.4, lines

37-49); and

computer readable program code configured to cause a reduction in said target

application's consumption of said resource (col.3, lines 35-47, and col.4, lines 58-67).

19. As to claim 16, Spilo teaches the invention as claimed, including a computer

program product comprising: a computer usable medium having computer readable

program code embodied therein for improving access to one or more resources (col.5,

lines 48-67) comprising,

computer readable program code configured to cause a computer to improve

access to one or more resources on a computer hosting a plurality of applications (col.5,

lines 1-20, col.6, lines 1-8, and col.7, lines 59-67) comprising,

computer readable program code configured to cause a computer to determine

when a first session is no longer active by identifying when a desktop unit is

disassociated with said session (col.4, lines 38-67);

computer readable program code configured to cause a computer to send a first

signal to said application indicating that said application should stop consuming said one

or more resources (col.4, lines 38-49);

computer readable program code configured to cause a computer to determine

when said first session becomes active by identifying when any desktop unit become re-

associated with said session (col.5, lines 1-21, and col.5, lines 40-60); and

computer readable program code configured to cause a computer to send a second

signal to said application indicating that said application should resume consuming said

resource (col.5, lines 40-60).

20. As to claim 18, Spilo teaches the invention as claimed, wherein said first and

second signals are sent by server (col.3, lines 55-67, and col.4, lines 50-67).

21. As to claim 19, Spilo teaches the invention as claimed, wherein said first signal

and said second signal comprise operating system commands (col.4, lines 50-67, and

col.5, lines 40-60).

Claim Rejections - 35 USC § 103

22. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

23. Claims 4, 11, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable

over Spilo et al., (hereinafter Spilo) U.S. Patent No. 6,298,422 in view of Tushie et al., (hereinafter Tushie) U.S. Patent No. 6,014,748.

24. As to claim 4, Spilo does not teach an identifier causing the association is a smart card. However, Tushie teaches an identifier causing the association is a smart card (col.11, lines 25-35, and col.14, lines 33-54). It would have been obvious to one of ordinary skill in the Data Processing art at the time of the invention to combine the teachings of Spilo and Tushie to have an smart card includes in a communication system because it would have an efficient system that can provide specific functions that gives it some kind of independent decision-making ability.

25. As claims 11 and 17 have similar limitations as claim 4; therefore, they are rejected under the same rationale.

Conclusion

26. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

27. Any inquiries concerning this communication or earlier communications from the examiner should be directed to **Tammy T. Nguyen** who may be reached via telephone at **(703) 305-7982**. The examiner can normally be reached Monday through Friday between 8:00 a.m. and 4:30 p.m. eastern standard time.

If you need to send the Examiner, a facsimile transmission regarding After Final issues,please send it to **(703) 746-7238**. If you need to send an Official facsimile trans-

mission, pleasesend it to **(703) 746-7239**. If you would like to send a Non-Official (draft)

facsimile transmission the fax is **(703) 746-7240**. If attempts to reach the examiner by

telephone are unsuccessful, the Examiner's Supervisor, **David Wiley**, may be reached at

(703) 308-5221.

Any response to this office action should be mailed too:

Director of Patents and Trademarks Washington, D.C. 20231.

Moreover, hand-delivered responses should be delivered to the Receptionist,

located on the **fourth floor of Crystal Park 11, 2121 Crystal Drive Arlington,**

Virginia.

Tammy T Nguyen

DAVID WILEY
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100